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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 BANK OF AMERICA, N.A.,

14 Plaintiff,

15 v.

16 M. DIANE HUTTON-POTTS, SURVIVING
TRUSTEE OF THE HUTTON-POTTS
17 FAMILY TRUST DATED SEPTEMBER 25,
1989; SECRETARY OF HOUSING AND
URBAN DEVELOPMENT; DEPARTMENT
18 OF TREASURY-INTERNAL REVENUE
SERVICE,

19 Defendants.

Civil No.: 3:17-cv-00684-MMD-WGC

**JOINT MOTION FOR FORTY-FIVE
DAY EXTENSION FOR UNITED
STATES (IRS) TO RESPOND TO
COMPLAINT**

FIRST REQUEST
LR IA 6-1, 6-2 and 7-1

(Removed from the District Court for the
State of Nevada, Douglas County, Case No.
17-cv-0243)

22 COMES now Plaintiff, Bank of America, N.A. and Defendant, United States of America, on

23 behalf of the Internal Revenue Service, an agency of the Department of Treasury, by and through their
24 undersigned counsel, and submit a Joint Motion to extend the time in which the United States has to

1 respond to the Complaint for a period of forty-five (45) days until February 8, 2018 and to continue
2 the filing of the Joint Status Report until February 28, 2018:

3 1. On October 20, 2017, the Bank of America, N.A. filed a civil action in the Douglas
4 County District Court against M. Diane Hutton-Potts, surviving trustee of the Hutton-Potts Family
5 Trust Dated September 25, 1989 (“Hutton-Potts”), the Secretary of Housing and Urban Development
6 (“HUD”), and the Department of Treasury-Internal Revenue Service (“IRS”). The Plaintiff seeks to
7 reform a deed of trust on real property in Douglas County due to an error in the legal description of the
8 property as described in more detail in the Complaint. The Plaintiff also seeks declaratory relief that its
9 deed of trust has priority over the interests of the other defendants, including the subject federal tax
10 liens.

11 2. The United States Attorney for the District of Nevada was served with a copy of the
12 Summons and Complaint in the state court action on or about October 26, 2017.

13 3. Defendant Hutton-Potts was served with a copy of the Summons and Complaint in the
14 state court action on or about October 30, 2017.

15 4. On November 20, 2017, the United States on behalf of the IRS, filed a Notice of
16 Removal in the United States District Court for the District of Nevada (ECF No. 1).

17 5. On December 7, 2017, Defendant HUD filed a Notice of Disclaimer of Interest (ECF
18 No. 5).

19 6. To date, Defendant Hutton-Potts has not responded to the Complaint or otherwise
20 entered an appearance in either the State Court or District Court proceedings.

21 7. The United States’ response to the Complaint is currently due by December 26, 2017.
22 The Court has ordered that a Joint Status Report is due by December 21, 2017.

1 8. By this Joint Motion, the parties seek a forty-five day extension until February 8, 2018
2 in which the United States has to respond to the Complaint and until February 28, 2018 in which the
3 parties have to file the Joint Status Report.

4 8. The additional time will allow the parties to consider the relative priorities of the deed of
5 trust and the tax liens and potentially enter into a stipulation minimizing the issues in dispute. The extent
6 to which the Plaintiff made disbursements on the loan secured by the deed of trust prior to the filing of
7 the notice of federal tax lien is not clear at this time.

8 DATED: December 19, 2017

/s/Henry C. Darmstadter
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16 DATED: December 19, 2017

/s/ Kristan Lehtinen
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Attorneys for Plaintiff

IT IS SO ORDERED:

William G. Cobb

UNITED STATES MAGISTRATE JUDGE

DATED: December 27, 2017.